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No. 317

In the Supreme Court of the United States

OCTOBER TERM, 1968

AMERICO DI PIETTO and ERNEST INFELICE, and FRANK SANTUCCI,

Petitioners,

vs.

UNITED STATES OF AMERICA,

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

---

PETITION FOR REHEARING OF THE ORDER DENYING CERTIORARI

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Now come the petitioners, Americo DiPietto, Ernest Infelice, by their attorney, Robert S. Bailey, and the petitioner Frank Santucci by his attorney, John Powers Crowley, pursuant to Supreme Court Rule 58 and petition for a rehearing of the order denying certiorari and as grounds therefor, state as follows:

1. On March 24, 1969, this Court granted certiorari as to the petitioners Mirro and McDonnell, vacated the judgments and remanded the cause to the District Court for further proceedings in conformity with *Alderman* v. *United*

States, Ivanov v. *United States* and *Butenko* v. *United States*, 37 L.W. 4189, and denied certiorari to these petitioners. *Giordano* v. *United States.*

2. In denying certiorari to these petitioners, the Court, in its *Per Curiam* order stated:

> We read the papers filed by the United States in these two cases as stating that the surveillance neither invaded the premises of the other petitioners nor overheard their conversations.

3. The Supplemental Memorandum filed by the Solicitor General admitting unlawful electronic surveillance of the petitioners Mirro and McDonnell made no mention of *the place of overhearing.*

4. Since no mention of the place or places of overhearing was made, it is impossible to determine from the Supplemental Memorandum whether the premises of the petitioners, or premises in which they had an interest, were invaded.

WHEREFORE, for the above reasons we respectfully request that this petition for rehearing be granted and that certiorari be granted, the judgments vacated and the entire case be remanded to the District Court to allow these petitioners an opportunity to establish an interest in the premises invaded.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

JOHN POWERS CROWLEY, a member of the Bar of this Court, and one of counsel for the petitioners certifies that this Petition for Rehearing is presented in the good faith and belief that this Court misinterpreted the papers submitted by the United States and further that the Petition is made for the above reason only and not for purposes of delay.

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JOHN POWERS CROWLEY